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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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JAMES J MURPHY, ESQ.  
WINSTEAD, SECHREST & MINICK P.C.  
1201 ELM STREET  
P.O. BOX 50784  
DALLAS, TX 75270

EXAMINER

STEVENS, ROBERTA A

ART UNIT PAPER NUMBER

2665

DATE MAILED: 11/05/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/405,821

Applicant(s)

GUBBI,

RA

Examiner

Roberta A Stevens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6,8,9,13-18,21,22 and 24-29 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

- 5) ☒ Claim(s) 19, 21-22, 24 and 25-29 is/are allowed.

- 6) ☐ Claim(s) 6,8,9 and 13-18 is/are rejected.

- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.

- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 6 and 13-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Van Driel (U.S. 6320869 B1).

3. Regarding claim 6, Van Driel teaches (abstract and figures 1 and 5-6) a method for improving network performance in a network having a slotted link architecture, comprising: assigning a time slot within a network frame to each device in the network; providing an unassigned time slot within each network frame; and performing a clear channel assessment at a first device taking into account the first device's designated transmission time slot within a network frame with respect to those of other network devices; and transmitting data during the unassigned time slot responsive to the clear channel assessment (columns 5-7).

4. Regarding claim 13 Van Driel teaches (columns 5-9) a method comprising negotiating a transmission time in a TDM communication channel independent of a need to transmit asynchronous data within idle times of a transmission frame period.

5. Regarding claim 14 and 15, Van Driel teaches (columns 5-9) transmission of asynchronous data within the idle times are scheduled by devices utilizing the communication

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channel according to a clear channel assessment time and transmission characteristics (designated transmission time slots) of other devices transmitting within the channel.

6. Regarding claims 16 and 18, Van Driel teaches (abstract and columns 5-9) a method comprising accommodating asynchronous data transmission within a synchronized network, in which inter-node communications are organized into frames of time periods by permitting such asynchronous communications within otherwise idle times within those frames having unused idle times that occur upon completion of all regularly scheduled transmissions within such frames.

7. Regarding claim 17, Van Driel teaches (column 9) use of idle-times takes into account a transmitting node's designated transmission time within a particular frame with respect to transmission times of other nodes of the network.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Driel in view of Tobagi.

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10. As mentioned above Van Driel teaches all of the limitations of claim 6.
11. Van Driel does not teach a wait time.
12. Tobagi teaches (column 11-12) a clear channel assessment comprising waiting for an expiration of a time period that is the product of a predetermined clear channel waiting time and a numerical representation of the first device's designated transmission time slot within the communication channel. It would have been obvious to one of ordinary skill in this art to adapt to Van Driel's system Tobagi's concept of waiting to avoid collisions in the system.
13. Regarding claim 9 Tobagi teaches (columns 11-12) the predetermined clear channel waiting time is designated by a network-master device upon a connection thereto by first device.

***Allowable Subject Matter***

14. Claims 19, 21-22, 24, and 26-29 are allowed.

***Conclusion***

15. Any inquiry concerning the communication or earlier communications from the examiner should be directed to Roberta Stevens whose telephone number is (703) 308-6607. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:30 p.m.
16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor can be reached on (703) 308-6602.

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17. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-4700.

18. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks, Washington, D.C. 20231

**or faxed to:** (703) 746-9515

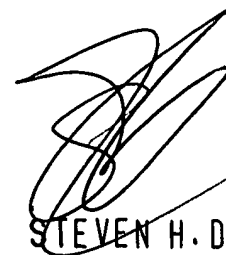
For informal draft communications, please label "PROPOSED" or "DRAFT"

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA. Sixth Floor (Receptionist).

Roberta A. Stevens

Patent Examiner

10-30-03



STEVEN H.D. NGUYEN  
PRIMARY EXAMINER